

523I.212 Receiverships.

1. The commissioner shall notify the attorney general of the potential need for establishment of a receivership if the commissioner finds that a cemetery subject to this chapter meets one or more of the following conditions:

- a. Is insolvent.
- b. Has utilized trust funds for personal or business purposes in a manner inconsistent with this chapter.
- c. The amount held in trust in a maintenance fund or care fund is less than the amount required by this chapter.
- d. A receivership has been established for a seller subject to chapter 523A who owns or operates a cemetery that is subject to this chapter.

2. The commissioner or attorney general may apply to the district court in any county of the state for the establishment of a receivership. Upon proof that any of the conditions described in this section have occurred, the court may grant a receivership. The commissioner may request that the insurance division be named as a receiver or that the court appoint a third party as a receiver. If the division is appointed as a receiver, the division shall not be subject to the requirements concerning an oath and surety bond contained in section 680.3.

3. In addition to the powers granted to receivers under chapter 680, a receiver appointed under this section shall be granted all powers necessary to locate and to temporarily preserve and protect perpetual care trust funds, consumer and business assets, interment records, records of consumer purchases of interment rights, and records of consumer purchases of funeral services and funeral or cemetery merchandise as defined in chapter 523A. The receiver shall also be granted such powers as are necessary in the course of the receivership to temporarily preserve and protect a cemetery or burial site and to temporarily restore or sustain cemetery operations, including interments, as operating funds or trust funds become available.

4. The commissioner may petition the court to terminate a receivership at any time and to enter such orders as are necessary to transfer the duty to preserve and protect the physical integrity of the cemetery or burial site, the interment records, and other records documenting consumer purchases of interment rights to the applicable governmental subdivision, as provided in section 523I.316, subsection 3. The court shall grant the petition if following the first one hundred twenty days of the receivership such duty to preserve and protect cannot be reasonably assumed by a private entity, association, or by other means.

2005 Acts, ch 128, §20; 2007 Acts, ch 175, §38 – 40

Referred to in §523A.811, 523I.213